NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

Pittsburgh Athletic Association and UNITE HERE Local 57. Cases 06–CA–105460 and 06–CA–105461

December 24, 2013 DECISION AND ORDER

BY CHAIRMAN PEARCE AND MEMBERS JOHNSON AND SCHIFFER

The General Counsel seeks a default judgment in this case on the ground that Pittsburgh Athletic Association, the Respondent, has failed to file an answer to the consolidated complaint. Upon charges filed on May 20, 2013, by UNITE HERE Local 57 (the Union), the General Counsel, on August 29, 2013, issued the consolidated complaint against the Respondent alleging that it violated Section 8(a)(5) and (1) of the National Labor Relations Act. The Respondent failed to file an answer.

On October 22, 2013, the General Counsel filed a Motion for Default Judgment with the Board. On October 23, 2013, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motions are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Default Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in a complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the consolidated complaint affirmatively stated that unless an answer was received by September 12, 2013, the Board may find, pursuant to a motion for default judgment, that the allegations in the complaint are true. Further, the undisputed allegations in the General Counsel's motion disclose that the Region, by letter dated September 23, 2013, notified the Respondent that unless an answer was received by the close of business on the third business day following receipt of that letter, a motion for default judgment would be filed. Nevertheless, the Respondent failed to file an answer.

In the absence of good cause being shown for the failure to file an answer, we deem the allegations in the consolidated complaint to be admitted as true, and we grant the General Counsel's Motion for Default Judgment and his Motion to Correct.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a non-profit Pennsylvania corporation, with an office and place of business in Pittsburgh, Pennsylvania (the facility), has been engaged in the operation of a private club, which supplies food and beverage services, athletic services, and related services to members and their guests.

In conducting its operations during the 12-month period ending April 30, 2013, the Respondent derived gross revenues in excess of \$500,000, and purchased and received at its facility goods valued in excess of \$50,000 from other enterprises, including Sysco Food Service, located within the Commonwealth of Pennsylvania, which other enterprise had received these goods directly from points outside the Commonwealth of Pennsylvania.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act:

Joseph Dengler	General Manager
Robert Dauer	President, Board of Directors
John Freyvogel	Vice President, Board of Directors
James Sheehan	Secretary, Board of Directors
Mike McSorely	Treasurer, Board of Directors

For many years, the Respondent has recognized the Union as the exclusive collective-bargaining representative of all food and beverage and housekeeping employees of the Respondent, the unit. This recognition has been embodied in successive collective-bargaining agreements, the most recent of which is effective by its terms from March 1, 2012, to February 28, 2015 (the Agreement). The unit, as set forth in the Agreement, constitutes a unit appropriate for the purposes of collec-

¹ On October 23, 2013, the General Counsel filed a Motion to Correct Motion for Default Judgment to include in the Motion for Default Judgment a more accurate description of the consolidated complaint allegations.

tive bargaining within the meaning of Section 9(b) of the Act. At all material times, based on Section 9(a) of the Act, the Union has been the exclusive collective-bargaining representative of the unit.

Article I, section 2 of the Agreement reads as follows:

The employer shall make monthly deductions for dues and fees as instructed by the Secretary-Treasurer of the union from the first paycheck of every month. If the wages are insufficient to make the deduction, the employer shall make the deduction that month from the next paycheck, which has sufficient wages for the deduction. If no deduction is made for union dues in the month, the employer will make up the deduction in the following month from the paycheck following the paycheck from which deduction for current dues were made.

Except for the deduction of the initiation fee, reinstatement fee or other special fees as instructed by the Secretary-Treasurer of the union, in no case shall the employer deduct more than two months dues during any one month, or more than one month's dues from any single paycheck. Deductions for missed dues payments shall be made at the rate of one extra deduction per month until the missed dues are paid.

No later than the tenth day of each month, the employer shall submit one check for the previous month's dues deductions together with one list of all bargaining unit employees, showing their names, their social security numbers, their dates of hire, hours worked, the total amount deducted from each employee each month, the reason if no deduction was made. The employer shall deposit the list in an electronic format approved by the Union on the Union's FTP site.

Since about November 2012, the Respondent failed to continue in effect all terms and conditions of the Agreement by failing to remit to the Union dues and fees deducted from the unit employees' wages.

The terms and conditions of employment described above are mandatory subjects for the purposes of collective bargaining.

The Respondent engaged in the conduct described above without the Union's consent.

Since about April 16, 2013, the Union has requested orally and in writing to Dengler that the Respondent furnish it with the following information:

- (a) Payroll summaries for each employee (Monthly) for the years of 2011, 2012, and 2013.
- (b) Bargaining Unit Lists Monthly for the years 2011, 2012, and 2013.

(c) Year-end summaries for all bargaining unit employees for 2011, 2012, and 2013.

The information requested by the Union is necessary for, and relevant to, the Union's performance of its duties as the exclusive collective-bargaining representative of the unit.

From about April 16 to June 14, 2013, the Respondent unreasonably delayed in furnishing the Union with the information requested by it.

CONCLUSION OF LAW

By failing to continue in effect all terms and conditions of the Agreement by failing, since about November 2012, to remit to the Union dues and fees deducted from the unit employees' wages, and by unreasonably delaying in furnishing the Union with the information it requested on about April 16, 2013, the Respondent failed and refused to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees in violation of Section 8(a)(5) and (1) of the Act, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent violated Section 8(a)(5) and (1) of the Act by failing and refusing to continue in effect all terms and conditions of the Agreement by, since about November 2012, failing to remit to the Union dues and fees deducted from unit employees' wages, as required by article I, section 2 of the Agreement, we shall order the Respondent to remit such withheld dues and fees to the Union, with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010).

ORDER

The National Labor Relations Board orders that the Respondent, Pittsburgh Athletic Association, Pittsburgh, Pennsylvania, its officers, agents, successors, and assigns, shall

- 1. Cease and desist from
- (a) Failing and refusing to bargain collectively with UNITE HERE Local 57 as the exclusive collective-bargaining representative of its unit employees by, since about November 2012, failing and refusing to remit dues and fees to the Union as required by article I, section 2 of its 2012–2015 collective-bargaining agreement with the

Union. The unit consists of all of the Respondent's food and beverage and housekeeping employees.

- (b) Unreasonably delaying in furnishing the Union with requested information that is relevant and necessary to the Union's performance of its duties as the exclusive collective-bargaining representative of the unit employees.
- (c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
- 2. Take the following affirmative action necessary to effectuate the policies of the Act.
- (a) Remit to the Union all dues and fees as required by article I, section 2 of the 2012–2015 collective-bargaining agreement that have been deducted from unit employees' wages and that have not been remitted since about November 2012, with interest, in the manner set forth in the remedy section of this decision.
- (b) Within 14 days after service by the Region, post at its facility in Pittsburgh, Pennsylvania, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 6, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since November 2012.
- (c) Within 21 days after service by the Region, file with the Regional Director for Region 6 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. December 24, 2013

Mark Gaston Pearce,	Chairmai
Harry I. Johnson, III,	Member
Nancy Schiffer,	Member

(SEAL) NATIONAL LABOR RELATIONS BOARD APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT fail and refuse to bargain collectively with UNITE HERE Local 57 as the exclusive collective-bargaining representative of our unit employees by, since about November 2012, failing and refusing to remit dues and fees to the Union as required by article I, section 2 of our 2012–2015 collective-bargaining agreement with the Union. The unit consists of all food and beverage and housekeeping employees employed by us.

² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

WE WILL NOT unreasonably delay in furnishing the Union with requested information that is relevant and necessary to the Union's performance of its duties as the exclusive collective-bargaining representative of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL remit to the Union all dues and fees as required by article I, section 2 of the 2012–2015 collective-bargaining agreement that have been deducted from unit employee's wages and that have not been remitted since in or about November 2012, with interest.

PITTSBURGH ATHLETIC ASSOCIATION